

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

GABRIEL J. VALENZUELA,

Plaintiff,

v.

No. 21-cv-0746 RB-KRS

MARK BELL, *et al.*,

Defendants.

**ORDER DIRECTING ANSWER AND DISMISSING CERTAIN CLAIMS**

This matter is before the Court on Plaintiff's Prisoner Civil Rights Complaint. (Doc. 1.) Also before the Court is his Motion to Waive or Excuse the Initial Partial Payment. (Doc. 12.) Plaintiff is incarcerated, *pro se*, and proceeding *in forma pauperis*. He alleges Detention Officer Mark Bell hit him in the face multiple times during a physical altercation. The Complaint raises claims for cruel and unusual punishment under the Eighth Amendment. The Complaint also cites 42 U.S.C. § 1983, which is the "remedial vehicle for raising claims based on the violation of constitutional rights." *Brown v. Buhman*, 822 F.3d 1151, 1161 n.9 (10th Cir. 2016). Plaintiff names two Defendants: Officer Bell and the Socorro County Detention Center (SCDC). The Complaint requests at least \$1.6 million in damages.

Having reviewed the matter *sua sponte* pursuant to 28 U.S.C. § 1915(e), the Court finds Plaintiff's claims against Officer Bell survive initial review. The Court will direct Officer Bell to answer the Complaint and will refer this case to Hon. Kevin Sweazea for further investigation. To expedite matters, the Clerk's Office will issue notice and waiver forms to both addresses available online for SCDC Detention Officers. As to SCDC, prisons and jail facilities are not "persons" subject to suit for money damages under § 1983. *See Will v. Mich. Dep't of State Police*, 491 U.S. 58, 66, 71 (1989); *Aston v. Cunningham*, 2000 WL 796086 at \*4 n.3 (10th Cir. Jun. 21, 2000) ("a

detention facility is not a person or legally created entity capable of being sued”). The Court will dismiss all claims against SCDC with prejudice.

As to the Motion to Waive or Excuse the Initial Partial Payment (Doc. 12), the record reflects Plaintiff paid his initial partial filing fee on October 29, 2021. (Doc. 9.) His motion is therefore moot, and he does not need to worry about the initial payment. Plaintiff is reminded that he must continue to make monthly payments if and when “the amount in [his] . . . account exceeds \$10” until the \$350 fee is paid. 28 U.S.C. § 1915(b)(2). However, the Court will not independently monitor his account each month, and no special extensions are required going forward.

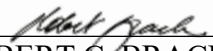
**IT IS ORDERED** that Plaintiff’s Motion to Waive or Excuse the Initial Partial Payment (Doc. 12) is **DENIED as moot**; and the initial partial payment obligation is satisfied.

**IT IS FURTHER ORDERED** that all 42 U.S.C. § 1983 claims set forth in the Complaint (Doc. 1) against Defendant Socorro County Detention Center are **DISMISSED with prejudice**.

**IT IS FINALLY ORDERED** that the Clerk’s Office shall **ISSUE** Notice and Waiver of Service Forms, along with a copy of this Order and the Complaint (Doc. 1) to Defendant Mark Bell, SCDC Detention Officer, at the following addresses:

1001 Grefco  
Socorro, NM 87801

200 Church St.  
Socorro, NM 87801

  
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ROBERT C. BRACK  
SENIOR U.S. DISTRICT JUDGE